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|---|-------------|----------------------|---------------------|------------------|
| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 09/901,782  | 07/09/2001  | Susan Hardin         | 0007/01UTL          | 9388             |
| 7590  | 12/22/2005  |                      | EXAMINER            |                  |
| Robert W. Strozier<br>ROBERT W. STROZIER, P.L.L.C.<br>P.O. Box 429<br>Bellaire, TX 77402-0429 |             |                      | SMITH, CAROLYN L    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 1631                |                  |
| DATE MAILED: 12/22/2005   |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                  |               |
|------------------------------|------------------|---------------|
| <b>Office Action Summary</b> | Application No.  | Applicant(s)  |
|                              | 09/901,782       | HARDIN ET AL. |
|                              | Examiner         | Art Unit      |
|                              | Carolyn L. Smith | 1631          |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 September 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 10,13-19,25-34 and 50-56 is/are pending in the application.

4a) Of the above claim(s) 25-34 is/are withdrawn from consideration.

5) Claim(s) 10 and 13-19 is/are allowed.

6) Claim(s) 50-56 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

Applicant's amendments and remarks, filed 9/14/05, are acknowledged. Amended claims 10 and 31 and new claims 50-56 are acknowledged.

Applicant's arguments, filed 9/14/05, have been fully considered but they are not deemed to be persuasive. Rejections and/or objections not reiterated from the previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

Claims 10, 13-19, and 50-56 are herein under examination. Claims 25-34 remain withdrawn as being drawn to non-elected subject matter.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 50-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These rejections are necessitated by amendment.

Claim 50 recites the term "monomer" in the last two lines which is vague and indefinite. It is unclear if this monomer is intended to be any kind of monomer such that is different from the dNTP of line 2 or if the monomer is intended to be dNTP itself. Clarification of this issue via clearer claim wording is requested. Claims 51-56 are also rejected due to their dependency from instant claim 50.

Claim 50 recites the limitation "the monomer" in the last line. There is insufficient antecedent basis for this limitation in the claim. The instant claim previously refers to monomer incorporations, but does not refer to an actual single monomer. Therefore, "the monomer" has no clear antecedent basis. Clarification of this issue via clearer claim wording is requested. Claims 51-56 are also rejected due to their dependency from instant claim 50.

***Conclusion***

Claims 10 and 13-19 are allowable. No method claims will be rejoined as the scope of the composition within the withdrawn method claims differ from the scope of the composition found in the allowable claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the PTO Fax Center. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993) (See 37 CFR §1.6(d)). The Central Fax Center number for official correspondence is (571) 273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Smith, whose telephone number is (571) 272-0721. The examiner can normally be reached Monday through Thursday from 8 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, can be reached on (571) 272-0718.

Any inquiry of a general nature or relating to the status of this application should be directed to Legal Instruments Examiner Tina Plunkett whose telephone number is (571) 272-0549.

**MARJORIE A. MORAN  
PRIMARY EXAMINER**

*Marjorie A. Moran*  
12/13/05

December 13, 2005